

Yes
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June 7, 1952
Opin. No. 52-175

Mr. Wes Polley
Cochise County Attorney
Bisbee, Arizona

Dear Mr. Polley:

We have yours of June 3 wherein you state:

"Due to the ambiguous language of Chapter 120, 2nd Regular Session of the 20th Legislature, we are having difficulty in ascertaining the salary of a constable in precincts having more than 3,000 voters and not exceeding 10,000 registered voters."

and ask our opinion on the following questions:

- "1. What is the salary fixed by law for a constable in such a precinct at the present time?
2. What is the salary fixed by law as of January 1st, 1953, or the date the new term for state offices begins?
3. What is the salary fixed by law as of January 1st, 1955, or the date the new term for state offices begins?"

Chapter 120 Session Laws of 1952, reads in part as follows:

"12-711. Salaries of precinct officers. (a) At the regular June meeting of the various boards of supervisors preceding a general election, said boards shall fix the salaries of all precinct officers, excepting justices of the peace and constables whose salaries are hereinafter specifically fixed, for the two-year period commencing on the first day of the following January.

(b) The monthly salaries of justices of the peace and constables in precincts having more than one thousand registered voters shall be:

1. In precincts having more than one thousand and not to exceed three thousand registered voters; Justices of the peace, two hundred seventy-five dollars.

2. In precincts having more than three thousand and not to exceed ten thousand registered voters: Justices of the peace, three hundred fifty dollars.

3. In precincts having more than ten thousand registered voters: Justices of the peace, five hundred dollars; constable, not to exceed three hundred seventy-five dollars."

The act fixes a specific amount of salary for justices of the peace in all precincts having more than one thousand registered voters but salaries of constables are not fixed in any specific amount in any precinct, even in precincts having more than ten thousand registered voters salaries for constables are not specifically fixed, the act merely fixes a maximum salary for constables in such precincts. Therefore the only salaries specifically fixed in the act are salaries for justices of the peace in precincts having more than 1000 registered voters. The act does not specifically fix the salary of a constable in any precinct and it follows that salaries of constables in all precincts must be fixed by the Board of Supervisors. This disposes of your first question.

In answering questions 3 and 4, we fail to see where the beginning of new terms for state officers have any connection with the salaries of precinct officers. The act directs the board to fix the salaries of certain precinct officers in June preceding the holding of a general election but this part of the act must be construed with section 17, article 4, part 2 of our Constitution which provides that the compensation of public officers shall not be increased or diminished during his term of office. Therefore, all constables and justices of the peace whose terms began January 1, 1951, under the constitutional section cited will receive the salary fixed for them in June of 1950.

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All justices of the peace in precincts having more than one thousand registered voters whose terms begin January 1, 1955, or after Chapter 120 was enacted, will receive the salary prescribed in said Chapter 120 and constables whose terms begin January 1, 1955 will receive the salary fixed by the board in June next preceding the general election of 1954.

Therefore, it is our opinion salaries of justices of the peace in precincts having less than one thousand registered voters and constables in all precincts are not specifically fixed by law and the salaries of such justices of the peace and constables in all precincts should be fixed by the board of supervisors of the several counties.

We trust this answers your questions.

Very truly yours,

FRED O. WILSON
Attorney General

EARL ANDERSON
Assistant Attorney General

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